ATTACHMENT A

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

FIBER TECHNOLOGIES NETWORKS, L.L.C.,

Complainant,

V.

DUKE ENERGY-INDIANA, INC., DUKE ENERGY CAROLINAS, LLC., and DUKE ENERGY PROGRESS, INC.

Respondents.

Proceeding No. 14-227

File No. EB-14-MD-015

DECLARATION OF T. SCOTT THOMPSON

I, T. SCOTT THOMPSON, declare as follows:

- I am a partner at Davis Wright Tremaine, LLP, and counsel for Complainant
 Fiber Technologies Networks, L.L.C. in this case. I submit this declaration in support of
 Fibertech's Reply to the Response to Pole Attachment Complaint in the above-captioned case.
- 2. Attached hereto as Exhibit 1 is a true and correct copy of an August 22, 1978 letter from the Indiana Utility Regulatory Commission ("IURC") to the Federal Communications Commission ("FCC") purporting to certify that it regulates pole attachments. This letter was filed with the FCC Office of the Secretary.
- 3. Attached hereto as Exhibit 2 is a true and correct copy of an October 27, 1981 letter from the IURC to the FCC stating that the IURC did not challenge the decision of the Indiana Court of Appeal in *Illinois-Indiana Cable Television Ass'n, Inc. v. Public Svc. Comm'n,*

427 N.E.2d 1100 (Ind. Ct. App. 1981), that the IURC does not have jurisdiction over the rates, terms, and conditions of pole attachments by cable operators, and that the IURC's attempted certification was withdrawn. This letter was filed with the FCC Office of the Secretary.

- 4. Attached hereto as Exhibit 3 is a legible copy of relevant page from Exhibit 6 of the Natasha Ernst Declaration submitted in support of Fibertech's Complaint in this matter. The version of the page submitted with Ms. Ernst's Declaration initially lost resolution during the copying and scanning process. The page shows a pole loading analysis that was attached to the Engineering drawings approved by Dayton Power & Light.
- 5. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

By:

T. Scott Thompson

Dated: January 6, 2015

EXHIBIT 1

STATE - INDIANA

PUBLIC SERVICE COMMISSION
BOI STATE OFFICE BUILDING



Aug 29 2 29 PM 4 76 20 4
INDIANA POLISMA 76 20 4

August 22, 1978

DOCKET FILE COPY ORIGINAL FILED/ACCEPTED

APR 2 6 2010

Federal Communications Commission Common Carrier Bureau 1919 M Street, N.W. Washington, D.C. 20554

Federal Communications Commission Office of the Secretary

Attn: Mrs. Shirley, Cable Bureau

Dear Mrs. Shirley:

On July 6, 1978 I wrote to you enclosing the original of a Certification of Regulation of cable television pole attachments by the Public Service Commission of Indiana as provided in P.L. No. 95-234, 47 U.S.C., Sec. 224(c)(2).

I had been informed that you were the person to whom this Certification should be sent. However, I also sent a copy of my letter and the Certification to the Secretary of the FCC and requested that either you or the Secretary acknowledge receipt of the Certification.

To date I have not received an acknowledgement or receipt of the Certification by this Commission from either you or the Secretary to the FCC. So that my file will be complete on this matter and confusion may be avoided in the future, I would greatly appreciate an acknowledgement of my letter of July 6, 1978 and enclosed Certification of Regulation of cable television pole attachments by the Public Service Commission of Indiana.

I am somewhat disturbed by the "first report and order" adopted by the FCC on August 8, 1978 and released August 11, 1978 in CC Docket 78-144 in that the first report and order, by footnote 3, indicates that Indiana is not considered by the FCC to have asserted jurisdiction as of the adoption of the order. I do not understand this since we tendered our Certification of Jurisdiction to you early in July.

I would like to have an explanation as to why the first report and order omits the state of Indiana from the states which, in the opinion of the FCC, appear to have asserted jurisdiction. A prompt reply to this letter would be greatly appreciated.

Respectfully yours,

gk cc:

William J. Tricarico, Secretary, Federal Communications Commission Walter O. Seabury, Chief Engineer, Public Service Commission of Indiana

A CANADA CAN

EXHIBIT 2

DOCKET FILE COPY ORIGINAL

STATE - INDIANA

PUBLIC SERVICE COMMISSION

901 STATE OFFICE FILED/ACCEPTED

INDIANAPOLIS 46204

October 27, 1981

APR 2 6 2010

RECEIVED

Mr. William Johnson Office of the Secretary
Chief, Cable Television Bureau
FEDERAL COMMUNICATIONS COMMISSION
Common Carrier Bureau
1919 M Street, N.W.
Washington, D.C. 20554

1981

POLE ATTACHMENT BRANCH

MOTOTION APPROPRIES

Dear Mr. Johnson:

On July 6, 1978 I sent your office a Certification of Regulation of Cable Television Pole Attachments by the Public Service Commission of Indiana as provided by P.L. No. 95-234, 47 U.S.C., Sec. 224(c)(2).

On October 27, 1981 the Court of Appeals of the State of Indiana held that this Commission does not have jurisdiction over the rates charged by electric and telephone utilities to cable television companies for pole attachments. We do not challenge that ruling. The Certification of Regulation sent to the FCC on July 6th is, therefore, hereby withdrawn.

Respectfully yours,

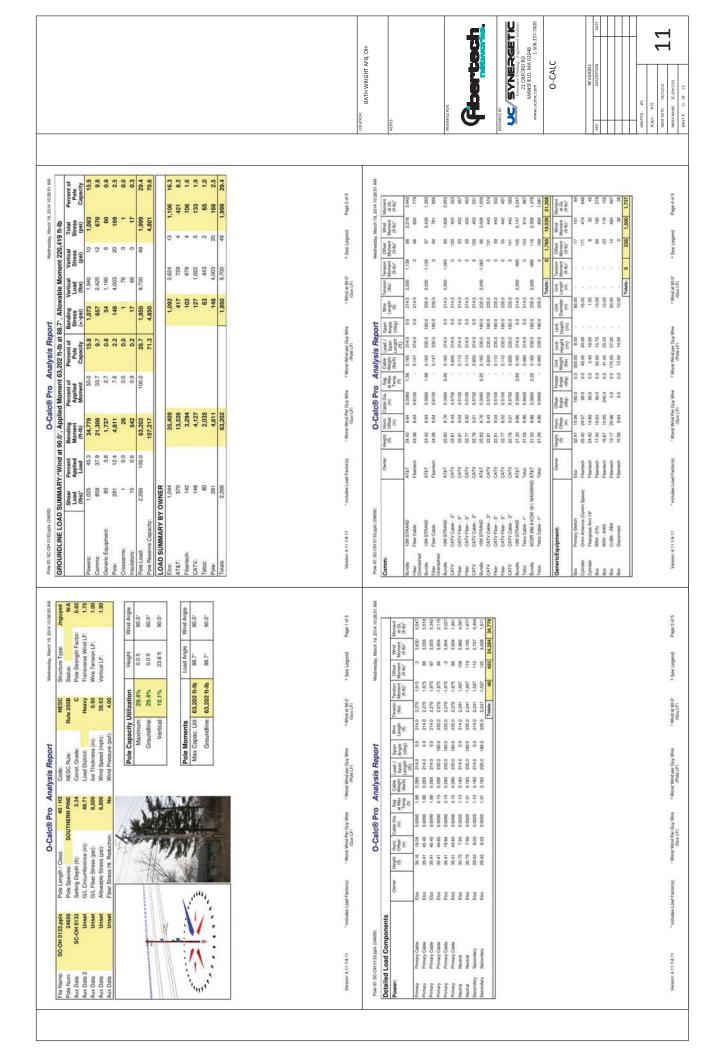
Carry J. Wallace

Chairman

gk cc:

Clerk of the Supreme and Appellate Court of Indiana
Commissioner William B. Powers
Commissioner Peggy Harris
Max W. Tucker, Secretary to the Public Service
Commission of Indiana
All Counsel of Record in Public Service Commission
Cause No. 35590 and Court of Appeals Cause No. 2-979 A 285
William J. Tricarico, Secretary,
Federal Communications Commisson

EXHIBIT 3



March 19, 2014 10:28:51 AM	Whird Moment at GL (R-b)* (R-b)*	27 28	27 26	Wind Moment ist GL (R-b)* (R-b)*			84 65				6 0	0	0 7	0 7	L 0	519 542		to the transfer of Safety Tactor of Safety	9.700 9.87				d Page 5 of 5
Wednesday, March 19, 2014 10:28:51 AM	Moment Moment (R-b)* (R-b)*	1 27		Other Word Moment Moment Moment Moment (GL, (Rb)* (Rb)* (Rb)*	85		Z	20	25		6 9 1	00 00 00 00 00 00 00 00 00 00 00 00 00		2 0 4				Pole Tg. Backing Load Backing Load Backing Load Hought Capacity at Hyt. Append at Hyt. Frachor of Salery inn:	6 95,756 9,700				1 Wind at 90 0" * See Legend Page 5 of 5 (Guy LF)
Pro Analysis Report Wednesday, March 19, 2014 102851 AM	Rotate Unit Unit Unit Unit Unit Unit Unit Unit Unit Manage Critical Advanced Advanced Morrant Advanced A	180.0 40.00 4.50 . 0.001 27	Totals: 0 -1 27	Rodale Unit Dim 1** Dim 2** Offset Word Moment Mom	12.75 3.80 0 85	180.0 3.00 12.75 3.80 19 84	180.0 3.00 12.75 3.80 19 84	0.0 3.00 12.75 3.80 + · · · 19 84	0.0 3.00 12.75 3.80 · · · 0 84	0.0 3.00 12.75 3.80	0.0 1.00 2.12 2.50	0.0 1,00 2,12 2,50 1	0.0 5.00 0.00 3.00 7	0.0 5.00 0.00 3.00 7	5.00 0.00 3.00 7	0 23 519		Pole to Pole Tip Bucking Load Bucking Load Density Height Capacity at Hgt. Applied at Hgt. Inch. Inch. Inch. Inch.	1,600,000 60.00 57.00 36.66 96.756 9.700				* Worst Wind per Guy Wire * Wind at 90.0" * See Legend (Guy LF)
O-Calc® Pro Analysis Report Wordnesday, March 19, 2014 10:28:51 AM	Height Height Chief Petals Unit Lune Luhe Lu	40.00 4.50 . 0.001 27	Totals: 0 -1 27	Height Nortic Other Rotate Unit Dim 1.4 DIm 2.4 Chipet Nortic Other Nortic Othe	5.29 0.0 0.0 3.00 12.75 3.80 0 85	46.00 100.0 180.0 3.00 12.75 3.80 19 84	40.00 260.0 180.0 3.00 12.75 3.8019 84	40.00 100.0 0.0 3.00 12.75 3.80 · · · 19 64	0.00 180.0 0.0 3.00 12.75 3.80 0 84	40.00 260.0 0.0 3.00 12.75 3.80 19 84	568 90.0 0.0 1.00 2.12 2.50	29.42 5.78 90.0 0.0 1.00 2.12 2.50 · · · · · · · · · · · · · · · · · · ·	24.42 6.14 90.0 0.0 5.00 0.00 3.00 7	22.83 6.26 90.0 0.0 5.00 0.00 3.00 7	0.0 5.00 0.00 3.00 7	0 23 519		Modes Dismessive Domester Modula of Poles tee Pole To Bucking Load Bicking Load Bucking Damester Le Estanding Penatry Demanty Height Opporty at high. Applied at Hyd. Damest Off. Link into teach from the Poles Towark T	60 24.20 10.51 15.83 1.600.000 60.00 57.00 36.66 95.756 93.700				* Worst Wind Per Guy Wire * * * * * * * * * * * * * * * * * * *
	Hebrit Coffset Reuss Unit Unit Unit Unit Unit Unit Unit Unit	7.09 180.0 180.0 40.00 4.50 . 0.00	Totals: 0 -1 27	Marker Chines Rodate Libit Dim 1* Dim 2* Moral Word Moral	3616 529 0.0 0.0 3.00 12.75 3.80 0 85	35.50 -40.00 100.0 180.0 3.00 12.75 3.80 19 84	Eloo 35.50 40,00 260.0 180.0 3.00 12.75 3.80 · · · · · · · 19 84	Elco 35.50 40.00 100.0 0.0 3.00 12.75 3.80 · · · · 19 84	Eloo 35.50 0.00 180.0 0.0 3.00 12.75 3.80 + + · · 0 84	N Elco 35.50 40.00 260.0 0.0 3.00 12.75 3.80 19 84	Eloo 30.75 5.68 90.0 0.0 1.00 2.12 2.50 · · · · · · · · · · · · · · · · · · ·	29.42 5.78 90.0 0.0 1.00 2.12 2.50 · · · · · · · · · · · · · · · · · · ·	24.42 6.14 90.0 0.0 5.00 0.00 3.00 · · · · 7	22.85 6.26 90.0 0.0 5.00 0.00 3.00	6.36 90.0 0.0 5.00 0.00 3.00 7	0 23 519		Dementer Demente Modulus of Pole tes PowTip Bucking Load Bucking Load at To at Cut. Essacion Pennsh Demity Height Capacity at Hgt. Applied at Hgt. ins insis insis inner	14.69 24.20 10.51 15.83 1.600,000 60.00 57.00 36.66 96.756 9.700		mension 1 ody Length ody Length ody Length ength		* Worst Wind per Guy Wire * Wind at 90.0" * See Legend (Guy LF)

INTERPORT AATE O-CALC

	νď		
REVISIONS	DESCRIPTION		
	REV		

	12										
	DRAFTER: JPC	SCALE: NTS	ISSUE DATE: 03/10/14	INDEX NAME: SC-OH0133	SHEFT#: 12 OF 13						